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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,524	08/29/2001	Rajans Keshav Panadiker	7489	7986

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EXAMINER

MRUK, BRIAN P

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/914,524

Applicant(s)

PANADIKER ET AL.

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 6, 8 and 10 are objected to because of the following informalities:

In instant claim 6, the phrase "a linearly polymerizing monomers" should be amended to recite "a linearly polymerizing monomer" for grammatical purposes.

In instant claim 8, the phrase "said dye maintenance polymer a co-polymer" should be amended to recite, "said dye maintenance polymer is a co-polymer" for grammatical purposes.

In instant claim 8, the phrase "a linearly polymerizing monomers" should be amended to recite "a linearly polymerizing monomer" for grammatical purposes.

In instant claim 10, the phrase "said dye maintenance polymer comprises copolymer" should be amended to recite, "said dye maintenance polymer comprises a copolymer" for grammatical purposes.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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4. Claim 8 recites the limitation "wherein R<sup>5</sup> is" in line 5. There is insufficient antecedent basis for this limitation in the claim. The examiner notes that the variable R<sup>5</sup> is not recited in instant claim 5. Appropriate correction and/or clarification is required.

5. Instant claim 9 recites "wherein Z has the formula:  $-(CH_2)_mCOR$ " in line 2. The examiner notes that claim 9, which ultimately depends from claim 4, recites a formula for the variable Z which is outside the scope of the variable Z recited in independent claim 4. Specifically, note that independent claim 4 cannot contain a carbonyl group, which is required in instant claim 9. Appropriate correction and/or clarification is required.

6. In instant claim 10, the ratio requirements for the last 2 recited Markush groups renders the claim vague and indefinite, since it is unclear what the "polymer" and "monomer" components are. Appropriate correction and/or clarification is required.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lion Corp., JP 61031499.

Lion Corp., JP 61031499, discloses a detergent composition comprising a cationic surfactant and a cationic polymer selected from the group consisting of polydimethylaminoethyl methacrylate, dimethylaminoethyl methacrylate/acrylamide copolymer, and a cationically modified polyacrylamide (see abstract), per the requirements of the instant invention. Therefore, instant claims 1-5 and 9 are anticipated by Lion Corp., JP 61031499.

9. Claims 1-10 are rejected under 35 U.S.C. 102(a) as being anticipated by Tartakovsky et al, WO 99/05248.

Tartakovsky et al, WO 99/05248, discloses a dishwashing detergent comprising 0.1-20% by weight of a cationic polymer (see page 5, lines 10-27 & page 8, line 33- page 14, line 19), and 0.5-30% by weight of a surfactant (see page 32, lines 29-31), per the requirements of the instant invention. It is further taught by Tartakovsky et al that suitable cationic polymers include copolymers of 2-vinyl pyridine, vinylbenzenetrialkylammonium salts, piperidine, acrylamides, and amino acrylates (see page 10, lines 13-32). Specifically, note page 39, Examples 1-2, and the specific cationic polymers used in Examples 1-2 on pages 40-41, per the requirements of instant claims 1-10. Therefore, instant claims 1-10 are anticipated by Tartakovsky et al, WO 99/05248.

10. Claims 1, 4, 5 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Fredj, EP 754,748.

Fredj, EP 754,748, discloses a detergent composition comprising a dye transfer inhibiting copolymer (see abstract). It is further taught by Fredj that the polymer is a copolymer of vinylpyridine with vinylpyrrolidone, acrylic acid, and maleic acid (see page 2, lines 42-59), and that the detergent composition also contains 1-40% by weight of an anionic surfactant (see page 4, lines 33-34), per the requirements of the instant invention. Specifically, note Examples 1-3. Therefore, instant claims 1, 4, 5 and 9-11 are anticipated by Fredj, EP 754,748.

11. Claims 1-7, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Takashi et al, GB 2,104,091.

Takashi et al, GB 2,104,091, discloses a detergent composition for washing textiles comprising 0.01-10% by weight of an amphoteric polymer and 1-50% by weight of a surfactant (see page 3, lines 19-48). It is further taught by Takashi et al that the cationic portion of the polymer contains monomers such as vinylpyridine, dimethylaminoethyl methacrylate, and allyldimethylamine, and that the anionic portion of the monomer contains monomers such as acrylic acid (see page 3, lines 9-18). Specifically, note Table 1, which discloses amphoteric polymers for use in the composition of Example 1, per the requirements of the instant invention. Therefore, instant claims 1-7, 9 and 11 are anticipated by Takashi et al, GB 2,104,091.

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12. Claims 1-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bauman et al, U.S. Patent No. 4,418,011.

Bauman et al, U.S. Patent No. 4,418,011, discloses a detergent composition for laundering fabrics comprising 5-75% by weight of a nonionic surfactant (see col. 5, lines 20-25), and 0.5-10% by weight of a copolymer of acrylamide and a quaternary ammonium monomer, such as HECOFLOC 812 and MERQUAT 550 (see col. 4, lines 3-20), per the requirements of the instant invention. Specifically, note Examples 1-12. Therefore, instant claims 1-9 and 11 are anticipated by Bauman et al, U.S. Patent No. 4,418,011.

### ***Double Patenting***

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 1-10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of copending Application No. 09/914,525. Although the conflicting claims are not identical, they are not patentably distinct from each other because Zhang et al, Application No. 09/914,525, claims a similar composition for providing dye protection benefits to a fabric comprising at least 0.05% by weight of a copolymer containing monomer units I and II (see claim 10 of Application No. 09/914,525), 1-80% by weight of a cationic surfactant, and adjunct ingredients, per the requirements of instant claims 1-10. Although Zhang et al, Application No. 09/914,525, discloses a similar composition, they are not identical, because Zhang et al, Application No. 09/914,525, further requires at least 0.01% by weight of a fabric abrasion reducing polymer and at least 0.01% by weight of a polyamine component that is not required in the instant invention. Therefore, claims 1-10 of the instant invention are an obvious formulation in view of claim 10 of Zhang et al, Application No. 09/914,525.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.



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15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BPM  
Brian Mruk  
May 29, 2003

*Brian P. Mruk*  
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